

Executive Summary – Enforcement Matter – Case No. 48869
KAAPA Aqua Ventures Alliance, LLC
RN102341146
Docket No. 2014-0875-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Kava Farms, located adjacent to Centerline Road, approximately two miles east of the intersection of Centerline Road and Buena Vista Road and approximately eight miles east of Bayview, Cameron County

Type of Operation:

Aquaculture shrimp and fish production facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 19, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,446

Amount Deferred for Expedited Settlement: \$1,889

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,557

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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KAAPA Aqua Ventures Alliance, LLC
RN102341146
Docket No. 2014-0875-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 29, 2014

Date(s) of NOE(s): June 3, 2014

Violation Information

1. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to timely submit discharge monitoring reports (“DMRs”) for the monitoring periods ending December 31, 2013 through March 31, 2014; the annual flow report for the monitoring period ending August 31, 2013; the annual 48-hour acute toxicity report for the monitoring period ending December 31, 2013; and the semi-annual 24-hour acute toxicity reports for the monitoring periods ending June 30, 2013 and December 31, 2013 [30 TEX. ADMIN. CODE §§ 305.125 (1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System (“TPDES”) No. WQ0003946000, Monitoring and Reporting Requirements No. 1, Other Requirements No. 14, 24-Hour Acute Monitoring Requirements No. 3, and 48-Hour Acute Monitoring Requirements No. 3].
2. Failed to collect and analyze effluent samples at the required frequency. Specifically, the Respondent did not collect samples for dissolved oxygen for the monitoring periods ending April 30, 2013 and May 31, 2013. The Respondent reported that samples were not collected on the DMRs [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0003946000, Monitoring and Reporting Requirements No. 1].
3. Failed to comply with permitted effluent limits for dissolved oxygen, total suspended solids, inorganic suspended solids, 5-day carbonaceous biochemical oxygen demand, and daily maximum flow [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0003946000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By June 1, 2013, the Respondent began collecting and analyzing effluent samples at the required frequency.
- b. By June 11, 2014, the Respondent submitted:
 - i. The DMRs for the months of December 2013 through March 2014;

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Docket No. 2014-0875-IWD-E

- ii. The annual 48-hour acute toxicity report for the monitoring period ending December 31, 2013;
- iii. The semi-annual 24-hour acute toxicity reports for the monitoring periods ending June 30, 2013 and December 31, 2013; and
- iv. The annual flow report for the monitoring period ending August 31, 2013.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that all effluent samples are collected and analyzed at the minimum required frequencies and self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly, semi-annual, and annual reports;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and
- c. Within 90 days, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0003946000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limits.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Marge Lauer, President, KAAPA Aqua Ventures Alliance, LLC, P.O. Box 1301, Kearney, Nebraska 68848
Respondent's Attorney: N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	9-Jun-2014	PCW	24-Jun-2014	Screening	18-Jun-2014	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	KAAPA Aqua Ventures Alliance, LLC						
Reg. Ent. Ref. No.	RN102341146						
Facility/Site Region	15-Harlingen			Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	48869	No. of Violations	3
Docket No.	2014-0875-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	30.0%	Enhancement	Subtotals 2, 3, & 7	\$2,175
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Notes

Enhancement for five months of self-reported effluent violations, and one NOV with same/similar violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,061
Estimated Cost of Compliance	\$10,470

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,425
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.2%	Adjustment	\$21
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended enhancement to capture the avoided cost associated with Violation No. 2.

Final Penalty Amount	\$9,446
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,446
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,889
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,557
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Screening Date 18-Jun-2014

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PCW

Respondent KAAPA Aqua Ventures Alliance, LLC

Policy Revision 4 (April 2014)

Case ID No. 48869

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102341146

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self-reported effluent violations, and one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 18-Jun-2014

Docket No. 2014-0875-IWD-E

PCW

Respondent KAAPA Aqua Ventures Alliance, LLC

Policy Revision 4 (April 2014)

Case ID No. 48869

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102341146

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") No. WQ0003946000, Monitoring and Reporting Requirements No. 1, Other Requirements No. 14, 24-Hour Acute Monitoring Requirements No. 3, and 48-Hour Acute Monitoring Requirements No. 3

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on May 29, 2014. Specifically, the Respondent failed to timely submit discharge monitoring reports ("DMRs") for the monitoring periods ending December 31, 2013 through March 31, 2014; the annual flow report for the monitoring period ending August 31, 2013; the annual 48-hour acute toxicity report for the monitoring period ending December 31, 2013; and the semi-annual 24-hour acute toxicity reports for the monitoring periods ending June 30, 2013 and December 31, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 8

182 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,000

Eight single events are recommended, one event for each late report.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$2,606

This violation Final Assessed Penalty (adjusted for limits) \$2,606

Economic Benefit Worksheet

Respondent: KAAPA Aqua Ventures Alliance, LLC
 Case ID No.: 48869
 Reg. Ent. Reference No.: RN102341146
 Media: Water Quality
 Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	20-Jul-2013	11-Jun-2014	0.89	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to prepare and submit the missing reports (\$25 per report x 8 late reports). Date required is the date the first DMR was due. Final date is the date the delinquent reports were submitted. Training cost for this violation is captured in Violation No. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$9

Screening Date 18-Jun-2014

Docket No. 2014-0875-IWD-E

PCW

Respondent KAAPA Aqua Ventures Alliance, LLC

Policy Revision 4 (April 2014)

Case ID No. 48869

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102341146

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0003946000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to collect and analyze effluent samples at the required frequency, as documented during a record review conducted on May 29, 2014. Specifically, the Respondent did not collect samples for dissolved oxygen for the monitoring periods ending April 30, 2013 and May 31, 2013. The Respondent reported that samples were not collected on the DMRs.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm	Minor
Actual		Moderate	
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,500

Two single events are recommended for the monitoring periods ending April 30, 2013 and May 31, 2013.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$1,954

This violation Final Assessed Penalty (adjusted for limits) \$1,954

Economic Benefit Worksheet

Respondent KAAPA Aqua Ventures Alliance, LLC
Case ID No. 48869
Reg. Ent. Reference No. RN102341146
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	1-Apr-2013	21-Mar-2015	1.97	\$25	n/a	\$25
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all effluent samples are collected and analyzed at the minimum required frequencies and self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly, semi-annual and annual monitoring reports. Date required is the start of the first monthly monitoring period that dissolved oxygen samples were not collected and analyzed. The final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$20	1-Apr-2013	31-May-2013	1.08	\$1	\$20	\$21
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost that was avoided by failing to collect and analyze dissolved oxygen samples at the required frequency (\$10 x 2 missed samples). Date required is the start of the first monthly monitoring period that dissolved oxygen samples were not collected and analyzed. The final date is the last date in the monitoring period that dissolved oxygen samples were not collected and analyzed.

Approx. Cost of Compliance

\$270

TOTAL

\$46

Screening Date 18-Jun-2014

Docket No. 2014-0875-IWD-E

PCW

Respondent KAAPA Aqua Ventures Alliance, LLC

Policy Revision 4 (April 2014)

Case ID No. 48869

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102341146

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0003946000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on May 29, 2014, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Suspended solids, flow, and dissolved oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

244 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,007

Violation Final Penalty Total \$4,886

This violation Final Assessed Penalty (adjusted for limits) \$4,886

Economic Benefit Worksheet

Respondent KAAPA Aqua Ventures Alliance, LLC

Case ID No. 48869

Reg. Ent. Reference No. RN102341146

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Apr-2013	5-May-2015	2.01	\$1,007	n/a	\$1,007

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with permitted effluent limits. Date required is the first month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,007

KAAPA Aqua Ventures Alliance, LLC
 TPDES Permit No. WQ0003946000; RN102341146
 Docket No. 2014-0875-IWD-E; Case No. 48869

	CBOD5 Daily Average Conc.	CBOD5 Daily Maximum Conc.	Inorganic Suspended Solids Daily Average Conc.	Inorganic Suspended Solids Daily Maximum Conc.	Total Suspended Solids Daily Maximum Conc.	Flow Daily Maximum	Dissolved Oxygen Monthly Minimum Conc.
Month/Year	10 mg/L	20 mg/L	23 mg/L	45 mg/L	45 mg/L	80 MGD	5 mg/L
April 2013	21.7	23.9	37.9	c	67.5	c	*
May 2013	11.6	c	39	48	68	c	*
June 2013	c	c	49.4	90	115	c	4.01
July 2013	c	c	48	84	99	c	4
August 2013	c	c	42	78.3	90	c	4
September 2013	c	c	32.7	67.1	77.1	c	4.01
October 2013	c	c	49.6	73.7	78.8	c	4.5
November 2013	c	c	42.8	55	68.8	85.12	c

mg/L = milligrams per liter

c = compliant

* = Sample not collected

Conc. = concentration

MGD = million gallons per day

CBOD5 = carbonaceous biochemical oxygen demand, 5-day

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN604098202, RN102341146, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604098202, KAAPA Aqua Ventures Alliance, LLC **Classification:** SATISFACTORY **Rating:** 1.42

Regulated Entity: RN102341146, KAVA FARMS **Classification:** SATISFACTORY **Rating:** 1.42

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 12 - Agriculture, Forestry, Fishing, and Hunting

Location: Located adjacent to Centerline Road, approximately two miles east of the intersection of Centerline Road and Buena Vista Road and approximately eight miles east of Bayview in Cameron County, Texas

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

WASTEWATER PERMIT WQ0003946000

WASTEWATER EPA ID TX0087441

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: October 22, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 22, 2009 to October 22, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Cheryl Thompson

Phone: (817) 588-5886

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	December 10, 2009	(814604)
Item 2	December 11, 2009	(814603)
Item 3	February 10, 2010	(814596)
Item 4	April 12, 2010	(834327)
Item 5	May 18, 2010	(834328)
Item 6	June 18, 2010	(847329)
Item 7	August 12, 2010	(868174)

Item 8	October 18, 2010	(928568)
Item 9	November 15, 2010	(889121)
Item 10	December 19, 2010	(897497)
Item 11	January 10, 2011	(903388)
Item 12	February 18, 2011	(910301)
Item 13	February 28, 2011	(891721)
Item 14	March 19, 2011	(917514)
Item 15	April 18, 2011	(928566)
Item 16	May 19, 2011	(939210)
Item 17	June 21, 2011	(946630)
Item 18	July 10, 2011	(953886)
Item 19	September 19, 2011	(966538)
Item 20	November 10, 2011	(978697)
Item 21	November 14, 2011	(991811)
Item 22	December 09, 2011	(985517)
Item 23	February 17, 2012	(999160)
Item 24	March 23, 2012	(1004681)
Item 25	April 26, 2012	(1011255)
Item 26	May 04, 2012	(1017619)
Item 27	June 09, 2012	(1025418)
Item 28	July 16, 2012	(1032753)
Item 29	December 14, 2012	(1067065)
Item 30	January 07, 2013	(1081568)
Item 31	February 08, 2013	(1081567)
Item 32	March 18, 2013	(1090571)
Item 33	April 16, 2013	(1096924)
Item 34	June 10, 2014	(1181760)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 10/31/2013 (1154447)	CN604098202	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 11/30/2013 (1154448)	CN604098202	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 05/31/2014 (1188655)	CN604098202	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 06/30/2014 (1200424)	CN604098202	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 07/31/2014 (1200425)	CN604098202	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		

Date: 08/03/2014 (1145235)

CN604098202

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain compliance with the permitted effluent limits.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KAAPA AQUA VENTURES
ALLIANCE, LLC
RN102341146**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2014-0875-IWD-E

I. JURISDICTION AND STIPULATIONS

On June 6, 2014, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KAAPA Aqua Ventures Alliance, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an aquaculture shrimp and fish production facility located adjacent to Centerline Road, approximately two miles east of the intersection of Centerline Road and Buena Vista Road and approximately eight miles east of Bayview in Cameron County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on June 6, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Four Hundred Forty-Six Dollars (\$9,446) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Five Hundred Fifty-Seven Dollars (\$7,557) of the administrative penalty and One Thousand Eight Hundred Eighty-Nine Dollars (\$1,889) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 1, 2013, the Respondent began collecting and analyzing effluent samples at the required frequency.
 - b. By June 11, 2014, the Respondent submitted:
 - i. The discharge monitoring reports ("DMRs") for the months of December 2013 through March 2014;
 - ii. The annual 48-hour acute toxicity report for the monitoring period ending December 31, 2013;
 - iii. The semi-annual 24-hour acute toxicity reports for the monitoring periods ending June 30, 2013 and December 31, 2013; and
 - iv. The annual flow report for the monitoring period ending August 31, 2013.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125 (1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") No. WQ0003946000, Monitoring and Reporting Requirements No. 1, Other Requirements No. 14, 24-Hour Acute Monitoring Requirements No. 3, and 48-Hour Acute Monitoring Requirements No. 3, as documented during a record review conducted on May 29, 2014. Specifically, the Respondent failed to timely submit DMRs for the monitoring periods ending December 31, 2013 through March 31, 2014; the annual flow report for the monitoring period ending August 31, 2013; the annual 48-hour acute toxicity report for the monitoring period ending December 31, 2013; and the semi-annual 24-hour acute toxicity reports for the monitoring periods ending June 30, 2013 and December 31, 2013.
2. Failed to collect and analyze effluent samples at the required frequency, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES Permit No. WQ0003946000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 29, 2014. Specifically, the Respondent did not collect samples for dissolved oxygen for the monitoring periods ending April 30, 2013 and May 31, 2013. The Respondent reported that samples were not collected on the DMRs.
3. Failed to comply with permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0003946000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on May 29, 2014, and as shown in the table below:

	CBOD5 Daily Average Conc.	CBOD5 Daily Maximum Conc.	Inorganic Suspended Solids Daily Average Conc.	Inorganic Suspended Solids Daily Maximum Conc.	Total Suspended Solids Daily Maximum Conc.	Flow Daily Maximum	Dissolved Oxygen Monthly Minimum Conc.
Month/Year	10 mg/L	20 mg/L	23 mg/L	45 mg/L	45 mg/L	80 MGD	5 mg/L
April 2013	21.7	23.9	37.9	c	67.5	c	*
May 2013	11.6	c	39	48	68	c	*
June 2013	c	c	49.4	90	115	c	4.01
July 2013	c	c	48	84	99	c	4
August 2013	c	c	42	78.3	90	c	4
September 2013	c	c	32.7	67.1	77.1	c	4.01
October 2013	c	c	49.6	73.7	78.8	c	4.5
November 2013	c	c	42.8	55	68.8	85.12	c

mg/L = milligrams per liter

c = compliant

* = Sample not collected

Conc. = concentration

MGD = million gallons per day

CBOD5 = carbonaceous biochemical oxygen demand, 5-day

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KAAPA Aqua Ventures Alliance, LLC, Docket No. 2014-0875-IWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all effluent samples are collected and analyzed at the minimum required frequencies and self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly, semi-annual, and annual reports, in accordance with TPDES Permit No. WQ0003946000.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Order Provision No. 2.a., in accordance with Ordering Provision No. 2.d.
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0003946000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limits, in accordance with Ordering Provisions No. 2.d.
 - d. The written certifications of compliance required by Ordering Provisions Nos. 2.b. and 2.c. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with copies to:

Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/18/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

11-7-14
Date

MARGE LAUER
Name (Printed or typed)
Authorized Representative of
KAAPA Aqua Ventures Alliance, LLC

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.